

PART 72—PROCEDURES AND FEES FOR PROCESSING MAP CHANGES

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AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

SOURCE: 57 FR 29038, June 30, 1992, unless otherwise noted.

§ 72.1 Purpose of part.

The purpose of this part is to provide administrative and cost-recovery procedures for the engineering review and administrative processing associated with FEMA's response to requests for Conditional Letters of Map Amendment (CLOMAs), Conditional Letters of Map Revision (CLOMRs), Conditional Letters of Map Revision Based on Fill (CLOMR-Fs), Letters of Map Revision Based on Fill (LOMR-Fs), Letters of Map Revision (LOMRs), and Physical Map Revisions (PMRs). Such requests are based on proposed or actual man-made alterations within the floodplain, such as the placement of fill; modification of a channel; construction or modification of a bridge, culvert, levee, or similar measure; or construction of single or multiple residential or commercial structures on single or multiple lots.

[61 FR 46332, Aug. 30, 1996]

§ 72.2 Definitions.

Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part. For the purpose of this part, the products are defined as follows:

CLOMA. A CLOMA is FEMA's comment on a proposed structure or group of structures that upon construction, will be located on existing natural ground above the base (1-percent annual chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

CLOMR. A CLOMR is FEMA's comment on a proposed project that upon construction will affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing effective base flood elevations, the Special Flood Hazard Area (SFHA), or the regulatory floodway.

CLOMR-F. A CLOMR-F is FEMA's comment on a proposed project that upon construction will result in a modification of the SFHA through the placement of fill outside the regulatory floodway.

LOMR. A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), or both, based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

LOMR-F. A LOMR-F is FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the regulatory floodway.

Physical Map Revision. A Physical Map Revision (PMR) is FEMA's revision and republication of an effective FIRM, FBFM, or FIS report based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA.

[61 FR 46332, Aug. 30, 1996]

§ 72.3 Fee schedule.

(a) For requests for CLOMRs, LOMRs, and Physical Map Revisions based on structural measures on alluvial fans, an initial fee subject to the provisions of § 72.4, shall be paid to FEMA before FEMA begins review of the request. The initial fee represents the minimum cost for reviewing these

requests and is based on the prevailing private-sector labor rate. A revision to this initial fee, if necessary, will be published as a notice in the FEDERAL REGISTER.

(b) For requests for CLOMRs, LOMRs, and Physical Map Revisions based on structural measures on alluvial fans, the total fee is to be calculated based on the total hours expended by FEMA in reviewing and processing the request multiplied by an hourly rate based on the prevailing private-sector labor rate. The hourly rate is published as a notice in the FEDERAL REGISTER. A revision to the hourly rate, if necessary, will be published as a notice in the FEDERAL REGISTER.

(c) For conditional and final map revision requests for the following categories, flat user fees, subject to the provisions of § 72.4, shall be paid to FEMA before FEMA begins review of the request.

(1) Requests for CLOMAs, CLOMR-Fs, and LOMR-Fs for single structures or single lots;

(2) Requests for CLOMAs for multiple structures or multiple lots;

(3) Requests for CLOMR-Fs and LOMR-Fs for multiple structures or multiple lots;

(4) Requests for LOMRs and Physical Map Revisions based on projects involving bridges, culverts, or channels, or combinations thereof;

(5) Requests for LOMRs and Physical Map Revisions based on projects involving levees, berms, or other structural measures;

(6) Requests for LOMRs and Physical Map Revisions based on as-built information for projects for which CLOMRs were issued previously by FEMA;

(7) Requests for LOMRs and Physical Map Revisions based solely on more detailed data;

(8) Requests for CLOMRs based on projects involving new hydrologic information, bridges, culverts, or channels, or combinations thereof; and

(9) Requests for CLOMRs based on projects involving levees, berms, or other structural measures.

(d) The flat user fees for conditional and final map amendments and map revisions are based on the actual costs for reviewing and processing the requests. The fees for requests for

LOMR-Fs, LOMRs, and PMRs also shall include FEMA's costs for physically revising affected FIRM and FBFM panels to reflect map changes at a later date.

(e) In addition to the flat user fees for Physical Map Revisions, payment of a fee for FEMA's cartographic production costs, based on actual per-panel costs, shall be required.

(f) Revisions to the fees, if necessary, will be published as a notice in the FEDERAL REGISTER.

[61 FR 46332, Aug. 30, 1996]

§ 72.4 Submittal/payment procedures and FEMA response.

(a) The initial fee shall be submitted with a request for FEMA review and processing of CLOMRs, LOMRs, and Physical Map Revisions based on structural measures on alluvial fans; the appropriate flat user fee shall be submitted with all other requests for FEMA review and processing.

(b) FEMA must receive initial and flat user fees before it will begin any review. The fee is non-refundable when FEMA begins its review.

(c) Following completion of FEMA's review for any CLOMR, LOMR, or Physical Map Revision based on structural measures on alluvial fans, FEMA shall invoice the requester at the established hourly rate for any actual costs exceeding the initial fee incurred for review and processing. FEMA will not issue a determination letter or revised map panels until the invoice amount is received.

(d) For all map revision requests, FEMA will bear the cost of reprinting and distributing the revised FIRM or FBFM panels, or combination.

(e) The entity that applies to FEMA through the local community for review is responsible for the cost of the review. The local community incurs no financial obligation under the reimbursement procedures set forth in this part as a result of transmitting the application by another party to FEMA.

(f) Requesters shall submit payments by check or money order or by credit card. Checks or money orders, in U.S. funds, shall be made payable to the National Flood Insurance Program.

(g) For CLOMA, CLOMR-F, LOMA, and LOMR-F requests, FEMA shall:

(1) Notify the requester and the community within 30 days as to the adequacy of the submittal, and

(2) Provide to the requester and the community, within 60 days of receipt of adequate information and fee, a determination letter or other written comment in response to the request.

(h) For CLOMR, LOMR, and PMR requests, FEMA shall:

(1) Notify the requester and the community within 60 days as to the adequacy of the submittal; and

(2) Provide to the requester and the community, within 90 days of receipt of adequate information and fee, a CLOMR, a LOMR, other written comment in response to the request, or preliminary copies of the revised FIRM panels, FBFM panels, or affected portions of the FIS report to the community and the requester for review and comment.

[61 FR 46332, Aug. 30, 1996]

§ 72.5 Exemptions.

(a) Requests for map changes based on mapping or analysis errors or the effects of natural changes within Special Flood Hazard Areas shall be exempt from fees.

(b) Requests for LOMAs shall be exempt from fees.

(c) Federal, State, and local governments and their agencies shall be exempt from fees for projects they sponsor if the Administrator determines or the requesting agency certifies that the particular project is for public benefit and primarily intended for flood loss reduction to insurable structures in identified flood hazard areas which were in existence prior to the commencement of construction of the flood control project. Projects undertaken primarily to protect planned flood plain development are not eligible for fee exemption.

[57 FR 29038, June 30, 1992, as amended at 61 FR 46333, Aug. 30, 1996]

§ 72.6 Unfavorable response.

(a) A request for a CLOMA, CLOMR, or CLOMR-F may be denied or the determination may contain specific comments, concerns, or conditions regarding a proposed project or design and its impacts on flood hazards in a commu-

nity. A requester is not entitled to any refund of the fees paid if the determination contains such comments, concerns, or conditions, or if the request is denied. A requester is not entitled to any refund of the fees paid if the requester is unable to provide the appropriate scientific or technical documentation or to obtain required authorizations, permits, financing, etc., for which the CLOMA, CLOMR, or CLOMR-F was sought.

(b) A request for a LOMR, LOMR-F, or Physical Map Revision may be denied or the revisions to the FIRM, FBFM, or both, may not be in the manner or to the extent desired by the requester. A requester is not entitled to any refund of the fees paid if the revision request is denied or if the LOMR, LOMR-F, or Physical Map Revision action does not revise the map specifically as requested.

[61 FR 46333, Aug. 30, 1996]

§ 72.7 Resubmittals.

(a) Any resubmittal of a CLOMA, CLOMR, CLOMR-F, LOMR, LOMR-F, or Physical Map Revision request more than 90 days after FEMA notification that the request has been denied or after the review has been terminated because insufficient information was provided by the requester will be treated as an original submission and subject to all submittal/payment procedures described in § 72.4. The procedure in § 72.4 also applies to any resubmitted request (regardless of when it is submitted) if the project on which the request is based has been altered significantly in design or scope other than as necessary to respond to comments, concerns, or other findings made by FEMA regarding the original submission.

(b) When a LOMR, LOMR-F, or Physical Map Revision request is made following a CLOMR or CLOMR-F issued previously by FEMA, the procedures in § 72.4 and the appropriate fee, as referenced in § 72.3(c), apply when the as-built conditions differ from the proposed conditions on which the issuance of the CLOMR or CLOMR-F was based.

[61 FR 46333, Aug. 30, 1996]

**PART 73—IMPLEMENTATION OF
SECTION 1316 OF THE NATIONAL
FLOOD INSURANCE ACT OF 1968**

Sec.

73.1 Purpose of part.

73.2 Definitions.

73.3 Denial of flood insurance coverage.

73.4 Restoration of flood insurance coverage.

AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

SOURCE: 51 FR 30318, Aug. 25, 1986, unless otherwise noted.

§ 73.1 Purpose of part.

This part implements section 1316 of the National Flood Insurance Act of 1968.

§ 73.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a *duly constituted State or local zoning authority or other authorized public body* means an official or body authorized under State or local law to declare a structure to be in violation of a law, regulation or ordinance.

(c) For the purpose of this part, *State or local laws, regulations or ordinances intended to discourage or restrict development or occupancy of flood-prone areas* are measures such as those defined as *Flood plain management regulations* in § 59.1 of this subchapter. Such measures are referred to in this part as State or local flood plain management regulations.

§ 73.3 Denial of flood insurance coverage.

(a) No new flood insurance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(b) New and renewal flood insurance shall be denied to a structure upon a finding by the Administrator of a valid declaration of a violation.

(c) States and communities shall determine whether to submit a declaration to the Administrator for the denial of insurance.

(d) A valid declaration shall consist of:

(1) The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

(2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

(3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

§ 73.4 Restoration of flood insurance coverage.

(a) Insurance availability shall be restored to a property upon a finding by the Administrator of a valid rescission of a declaration of a violation.

(b) A valid rescission shall be submitted to the Administrator and shall consist of:

(1) The name of the property owner(s) and an address or legal description of the property sufficient to identify the property and to enable FEMA to identify the previous declaration;

(2) A clear and unequivocal statement by an authorized public body rescinding the declaration and giving the reason(s) for the rescission;

(3) A description of and supporting documentation for the measures taken in lieu of denial of insurance in order to bring the structure into compliance with the local flood plain management regulations; and

(4) A clear statement that the public body rescinding the declaration has the authority to do so and a citation to that authority.